

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

WOLFF SHOE COMPANY,

Plaintiff,

V.

Case No. 4:11CV601 TIA

MOSINGER COMPANY. LLC
d/b/a MARK LEMP FOOTWEAR,

Defendant.

MEMORANDUM AND ORDER

This matter is before the Court on Defendant Mosinger Company's Motion to Compel Electronically Stored Information and Request for Expedited Ruling (Docket No. 55) and Request for Hearing on Motion to Compel Electronically Stored Information (Docket No. 66). Plaintiff Wolff Shoe Company filed a Memorandum in Opposition (Docket No. 58). Mosinger filed a Reply (Docket No. 64) thereto. All matters are pending before the undersigned United States Magistrate Judge, with the consent of the parties, pursuant to 28 U.S.C. § 636(c).

Wolff does not object to providing the financial data but only to providing the data in the format requested by Mosinger. Rule 34(b)(2)(E)(iii) protects a responding party from having to produce electronically stored information in more than one form. Fed.R.Civ.P. 34(b)(2)(E)(iii). If the form of production is not specified by party agreement or court order, the responding party must “produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.” Id. Inasmuch as the parties agreed as to the form of production in the case management order, the production of the financial data in PDF is a reasonably usable format that comports with Wolff’s obligations and the case management order. The undersigned finds that to compel the

production of the financial materials in the Excel format to be unnecessary pursuant to the case management order and the federal rules. Nonetheless, the Court will direct Wolff to produce the electronic financial data in the Excel format inasmuch as Wolff has the data in the Excel format and producing the data in such format does not present a burden to Wolff.

Accordingly,

IT IS HEREBY ORDERED that Mosinger's Motion to Compel Electronically Stored Information and Request for Expedited Ruling (Docket No. 55) is Granted as follows. Wolff shall produce the requested financial spreadsheets in Excel format no later than April 24, 2012.

IT IS FURTHER ORDERED that Mosinger's Request for Hearing on Motion to Compel Electronically Stored Information (Docket No. 66) is Denied.

The undersigned urges the parties to work together in resolving future discovery disputes.

/s/ Terry I. Adelman
UNITED STATES MAGISTRATE JUDGE

Dated this 18th day of April, 2012.